

Before Tejinder Singh Dhindsa, J.

NEENA DEVI—Petitioner

versus

STATE OF PUNJAB AND OTHERS—Respondents

CWP No. 12149 of 2009

July 09, 2013

Constitution of India, 1950 - Art. 226 - Writ Jurisdiction- Service Law - Ex gratia lump-sum compensation - Extraordinary Special Family Pension - Central Civil Services (Extraordinary Pension) Rules 1998 - Petitioner-Claimant widow of Havildar in CRPF who died while in service but on sanctioned casual leave - All permissible benefits released to the widow - Whether deceased died during "course of performance of duties" and whether there existed a causal connection between death and Government Service - Per Office Memo dated 11.09.1998 of Ministry of Personnel, Public Grievances and Pension, Government of India, death should have occurred in the actual performance of bona fide official duties - Guidelines dated 03.02.2000 - Death has to be attributable to or aggravated by Government Service-case not covered under said Memo and Guidelines -Writ Petition dismissed.

Held, that a collective reading of the office memo dated 11.9.1998 (Annexure P-8), annexure appended thereto, the Central Civil Services (Extraordinary Pension) Rules, 1998 as also guidelines issued therein would make it a prerequisite that for admissibility of ex-gratia lump sum compensation/extraordinary special family pension the death has to be accepted as attributable to or aggravated by govt. service. In the facts of the present case, even though, the late husband of the petitioner was returning back to join his place of posting and could be taken to have been on duty, yet, his death cannot be accepted as attributable or aggravated by govt. service. As per pleadings on record and in the written statement it has been clearly stated that a Court of Enquiry was instituted, whereby cause of death was stated to be a heart attack. A viscera report furnished by the Forensic Science Laboratory indicates the presence of a poisonous

substance/pesticide. Be that as it may, the death of the husband of the petitioner was not on account of any accident in the performance of his bonafide duties and cannot be taken as attributable or aggravated to govt. service.

(Para 9)

Interpretation of Statutes - Beneficial legislation - Applicability - Where language of provision clear and unambiguous, no resort to interpretation can be made by the Court to extend the benefits in favour of those for whom such benefit was not intended merely on ground of "compassion and equity"

Held, that where the language of the provision is clear and unambiguous, no resort to interpretation can be made by the Court to extend the benefits in favour of those for whom such benefit was not intended merely on the ground of "compassion and equity". The Hon'ble Supreme Court in case of *The Regional Director Employees' State Insurance Corpn. Trichur Vs. Ramanuja Match Industries*, AIR 1985 (S.C) 278 had clearly held that even though beneficial legislation should have liberal construction with a view to implementing the legislature intent but where such beneficial legislation has a scheme of its own, there would be no warrant for the Court to travel beyond the scheme and extend the scope of the statute on the pretext of extending the benefit even to those, who are not covered by the scheme.

(Para 10)

Rajeev Anand, Advocate, *for the petitioner*:

Vir Bhan, Advocate for the respondents-U.O.I.

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(1) The petitioner is the widow of late Havildar/G.D. Dev Raj, who was serving with the C.R.P.F. The instant writ petition has been filed being aggrieved of the action of the respondent-authorities in not having granted the benefit of ex-gratia lump sum compensation as also extraordinary special family pension. Further challenge in the petition is to the order dated 12.11.2008 (Annexure P-6), whereby the claim of the petitioner for benefits under the Group Personal Accident Insurance Scheme has been rejected.

(2) Factually it is undisputed that late husband of the petitioner was enlisted with the C.R.P.F on 1.4.1990. He was granted 15 days casual leave w.c.f. 18.2.2008 to 8.3.2008. He was also issued a Railway Warrant dated 16.2.2008 for journey from his place of posting in Assam to Nangal Dam and return journey. Husband of the petitioner while returning to his place of posting died during the course of journey on 8.3.2008. A postmortem examination of the body was carried out at Patna Medical College, Patna on 9.3.2008 and the opinion regarding cause of death was kept pending subject to the viscera report from the Forensic Science Laboratory. On the date of death, late husband of the petitioner had to his credit a qualifying service of 17 years 11 months and 8 days. Petitioner was sanctioned family pension at normal rates and was paid the death-cum-retirement gratuity on 10.10.2008. Petitioner received order dated 12.11.2008, whereby the claim for grant of benefits under Group Personal Accident Insurance Scheme has been rejected citing the basis that the petitioner had died a natural death on account of heart attack. It has been pleaded that the petitioner submitted a number of representations for grant of ex-gratia lump sum compensation as also for the grant of extraordinary special family pension but since no response was forthcoming, hence, her hands were constrained to approach this Court by way of filing of the present writ petition.

(3) Mr. Rajeev Anand, learned counsel appearing for the petitioner while opening the arguments, has, at the very outset, made a statement that he is not addressing arguments as regards the validity of the impugned order dated 12.11.2008 (Annexure P-6) is concerned and as such is not pressing the claim of the petitioner as regards benefits under the Group Personal Accident Insurance Scheme is concerned. Counsel would, however, vehemently argue that the petitioner has been denied the special benefits in the nature of ex-gratia lump sum compensation as also extraordinary special family pension without any basis as the husband of the petitioner had died during the course of performance of his duties. It has been argued that late husband of the petitioner was on sanctioned casual leave and his death that has occurred during the course of journey while reporting back to his place of posting would be covered under the expression "course of performance of duties" and as such there was a casual connection between the death and govt. service.

(4) Per contra, learned counsel appearing for the Union of India would submit that the petitioner has been granted all the permissible benefits after the death of her husband and in this regard would apprise the Court

that she has been allowed family pension @ Rs.3037/- per month w.e.f. 9.3.2008 for a period of seven years, death-cum-retirement gratuity of Rs. 1,07,163/-, medical allowance @ Rs.100/- per month w.e.f. 9.3.2008 and in addition to all such benefits a sum of Rs.3,35,000/- also stands sanctioned to her under the Risk & Central Welfare Fund. That apart, it has been argued that the death of the husband of the petitioner was on account of natural reasons and could not be attributable to govt. service. Accordingly, a prayer for dismissal of the writ petition has been made.

(5) Learned counsel for the parties have been heard at length and pleadings on record have been perused.

(6) The claim as regards the ex-gratia lump sum compensation and extraordinary special family pension would require examination against the backdrop of the relevant circulars and statutory rules governing the subject. The Govt. of India, Ministry of Personnel, Public Grievances and Pension issued office memo dated 11.9.1998 on the subject of grant of special benefits in cases of death and disability in service and payment of ex-gratia lump sum compensation to families of Central Govt. civilian employees, who died in harness. In terms of such office memo dated 11.9.1998 (Annexure P-8) a lump sum ex-gratia compensation on account of death occurring due to accident in the course of performance of duties has been quantified to be Rs.5 lacs. In the annexure appended to such office memo dated 11.9.1998, it is clarified that the main condition to be satisfied for the grant of the ex-gratia lump sum compensation is when the death of the employee concerned should have occurred in the actual performance of bonafide official duties.

(7) Likewise, for the grant of extraordinary special family pension the late husband of the petitioner being a Central Govt. employee and member of an armed force of the Union of India was governed by the Central Civil Services (Extraordinary Pension) Rules, 1998. Rule 3-A (1) of the said rules reads in the following terms:-

"3-A.(1)(a) Disablement shall be accepted as due to Govt. service, provided that it is certified that is due to wound, injury or disease which-

(i) is attributable to Govt. service, or

(ii) existed before or arose during Govt. service and has been and remains aggravated thereby.

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(b) Death shall be accepted as due to govt. service provided it is certified that it was due to or hastened by-

(i) a wound, injury or disease which was attributable to govt. service, or

(ii) the aggravation by govt. service of a wound, injury or disease which existed before or arose during govt. service.

(2) There shall be a casual connection between-

(a) disablement and govt. service and

(b) death and govt. service for attributability or aggravation to be conceded. Guidelines in this regard are given in the Appendix which shall be treated as part and parcel of these Rules."

(8) A perusal of such rule would clarify that death shall be accepted due to govt. service provided it is certified that it was due to or hastened by a wound, injury or disease, which was attributable to govt. service or on account of aggravation by a govt. service of a wound injury or disease which existed before or arose during govt. service and there would be a casual connection between the death and govt. service for attributability or aggravation to be conceded as would be seen in the light of guidelines issued in this regard and given in the form of an appendix. The guidelines stand appended along with the petition at Annexure P-9 dated 3.2.2000, wherein under category 'C' death or disability is covered, where it is due to accident in the performance of duties. Instances have also been cited i.e. accidents while travelling on duty in govt. vehicles or public transport, a journey on duty by service aircraft, mishaps at sea, electrocution on duty etc.

(9) A collective reading of the office memo dated 11.9.1998 (Annexure P-8), annexure appended thereto, the Central Civil Services (Extraordinary Pension) Rules, 1998 as also guidelines issued therein would make it a prerequisite that for admissibility of ex-gratia lump sum compensation/extraordinary special family pension the death has to be accepted as attributable to or aggravated by govt. service. In the facts of the present case, even though, the late husband of the petitioner was returning back to join his place of posting and could be taken to have been

on duty, yet, his death cannot be accepted as attributable or aggravated by govt. service. As per pleadings on record and in the written statement it has been clearly stated that a Court of Enquiry was instituted, whereby cause of death was stated to be a heart attack. A viscera report furnished by the Forensic Science Laboratory indicates the presence of a poisonous substance/pesticide. Be that as it may, the death of the husband of the petitioner was not on account of any accident in the performance of his bonafide duties and cannot be taken as attributable or aggravated to govt. service.

(10) Learned counsel appearing for the petitioner would contend that the office memo dated 11.9.1998 (Annexure P-8) as also the provisions of the Central Civil Services (Extraordinary Pension) Rules, 1998 and guidelines issued therein would have to be construed liberally as they are in the nature of a beneficial piece of legislation. Such submission cannot be accepted. Where the language of the provision is clear and unambiguous, no resort to interpretation can be made by the Court to extend the benefits in favour of those for whom such benefit was not intended merely on the ground of "compassion and equity". The Hon'ble Supreme Court in case of *The Regional Director Employees' State Insurance Corpn. Trichur versus Ramanuja Match Industries (1)*, had clearly held that even though beneficial legislation should have liberal construction with a view to implementing the legislature intent but where such beneficial legislation has a scheme of its own, there would be no warrant for the Court to travel beyond the scheme and extend the scope of the statute on the pretext of extending the benefit even to those, who are not covered by the scheme.

(11) Even the reliance placed by learned counsel for the petitioner upon two Division Bench judgements rendered by this Court in cases of *Kamlesh Devi versus State of Punjab (2)* and *P.M. Annamma versus Union of India and others (3)*, is wholly misplaced. In the case of *Kamlesh Devi* (supra) the widow of Havildar Lakhbir Chand had been held entitled to the benefits under the Punjab War Heroes' Families Relief Fund, 1999, even though, he had died on account of myocardiac infraction

(1) AIR 1985 (S.C) 278

(2) 2002 (1) S.C.T 929

(3) 2008 (3) S.C.T 707

but on the basis that the death had occurred while the deceased was performing his operational duties in the active area in J & K Sector and was patrolling on foot on way to his post. Accordingly, his death was held to be attributable to govt. service. In case of *P.M. Annamma* (supra) the claim of widow for special family pension on account of the death of her husband who had been serving in the Indian Air Force was allowed by taking notice of the fact that in the relevant document the Air Force authorities/Officer Commanding had himself conceded that the disability/death had been aggravated on account of service conditions. The facts of the present case are clearly distinguishable.

(12) For the reasons recorded above, the claim of the petitioner for the grant of ex-gratia lump sum compensation and extraordinary special family pension is found to be inadmissible under the relevant office circular and statutory provisions.

Writ petition is, accordingly, dismissed.

S. Gupta